

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
Civil Action No: 3:10-CV-350-FDW-DSC**

**OWEN HARTY,**

**Plaintiff,**

**v.**

**DENNY'S INC.,**

**Defendant.**

**AMENDED ORDER**

**THIS MATTER** is before the Court on “Plaintiff’s Motion for an Extension of Time of 20 Days ... to Respond to Defendant’s Motion to Dismiss Complaint” (document #7) filed September 13, 2010.

This action was filed after May 15, 2007, and is therefore governed by the Honorable Frank D. Whitney’s “Standing Order Governing Civil Case Management before the Honorable Frank D. Whitney” (document #2, 3:07MC47). As such, the “Initial Scheduling Order” provides as follows:

[e]xtensions of time to serve pleadings shall not be granted except by leave of court for good cause shown (consent of opposing counsel alone is not sufficient). Absent extraordinary circumstances, no party shall receive more than one extension of time to serve a pleading, with any such extension being no more than twenty (20) days in duration.

Although recognizing that Plaintiff’s response brief is not per se a “pleading,” the principle of granting a party one short extension, rather than multiple extensions, is applicable. Accordingly, Plaintiff should be prepared to file its Response on or before the extended deadline, that is, without further extensions. After conferring with Judge Whitney’s chambers, the Court will allow Plaintiff one 10-day extension.

Although Plaintiff represents in his Motion that his response is presently due October 4, 2010, the docket reflects that the actual deadline is September 16, 2010. Accordingly, Plaintiff will be granted an extension to September 26, 2010.

**IT IS HEREBY ORDERED** that:

1. "Plaintiff's Motion for an Extension of Time of 20 Days ... to Respond to Defendant's Motion to Dismiss Complaint" (document #7) is **GRANTED IN PART**. Plaintiff shall respond to Defendant's Motion to Dismiss on or before September 26, 2010.
2. The Order (document #8) entered of even date granting Plaintiff an extension through October 14, 2010 is **STRICKEN**.
3. The Clerk is directed to send copies of this Order to counsel for the parties; and to the Honorable Frank D. Whitney.

**SO ORDERED.**

Signed: September 14, 2010



David S. Cayer  
United States Magistrate Judge

